a public thoroughfare or where the public has a right to go. *Temple* v. *McComb City Elec. L. & P. Co.* (Miss.), 42 South. 874, 11 L. R. A. (N. S.) 449; *Kopplekom* v. *Colo. Cement Pipe Co., supra.* Where, however, the attractive danger is not near a public thoroughfare or is not where the public has a right to go, the proprietor is not liable. *Hermes' Adm'r* v. *Hatfield Coal Co.* (Ky.), 120 S. W. 351; *Gillespie* v. *McGowen,* 100 Pa. St. 144, 45 Am. Rep. 365; *Richards* v. *Connell,* 45 Neb. 467, 63 N. W. 915. It is not the keeping or leaving of an attractive dangerous thing on his premises that renders the owner liable; but it is the failure to take precautions to guard or protect them, or to prevent the intrusion of children. *Smalley* v. *Rio Grande Western R. Co., supra; Hart* v. *Mason City Brick & Tile Co.* (Ia.), 135 N. W. 423; *Bransom's Adm'r* v. *Labrot, supra; Kelley* v. *So. Wis. R. Co.* (Wis.), 140 N. W. 60.

Even in those states where the doctrine of attractive danger is generally accepted, no recovery is permitted where children have been warned away from the attractive object. *Missouri, K. & T. R. Co. of Tex.* v. *Edwards,* 90 Tex. 65, 36 S. W. 430, 32 L. R. A. 825; *Curtis* v. *Tenino Stone Quarries,* 37 Wash. 355, 79 Pac. 955; *O'Conner* v. *Ill. Cent. R. Co.,* 44 La. Ann. 339, 10 So. 678. This is upon the theory that the violation of such warning reduces the status of children from implied invitees to actual trespassers; and the owner is not liable to a wilful trespasser, even though a child, save for wanton injury. *Ball* v. *Middlesboro Town & Land Co.,* 24 Ky. Law Rep. 114, 68 S. W. 6. In the principal case, construing the situation in the most favorable light for the infant, he was at best a mere licensee toward whom the company owed no duty save to abstain from willfully injuring him. *C., C., C. & St. L. R. Co.* v. *Ballentine,* 28 C. C. A. 572, 84 Fed. 935; *Benson* v. *Balt. Trac. Co.,* 77 Md. 535, 26 Atl. 973, 39 Am. St. Rep. 436, 20 L. R. A. 714. This case seems to carry the doctrine of attractive danger beyond safe limits.

EX POST FACTO LAWS—CHANGE IN MANNER OF INFLICTING PUNISHMENT. —A statute was passed substituting electrocution in place of death by hanging. *Held,* not *ex post facto* as to crimes committed before the passage of the statute. *State* v. *Malloy* (S. C.), 78 S. E. 995.

Any law passed after the commission of the offence for which the accused is being tried is an *ex post facto* law, when it inflicts a greater punishment than the law annexed to the crime when committed, or which alters the situation of the accused to his disadvantage. *In re Medley,* 134 U. S. 160. Laws mitigating a former punishment are clearly not *ex post facto,* but it is difficult to say in individual cases that one punishment is less severe than another. The courts generally seem inclined to ignore the individual case when it is clearly counter to the general conception of the degrees of punishment respectively inflicted, especially where the law has been passed with the intention to mitigate the punishment. It is held, though not without some conflict, that a change of punishment from death to anything short of death is not *ex post facto* as to previous crimes. *Commonwealth* v. *Wyman,* 66 Mass. (12 Cush.) 237; *McGuire* v. *State,* 76 Miss. 505, 25 So. 495. It was held by the United States Supreme Court, two judges dissenting, that where

confinement, pending execution, was changed to *solitary* confinement, such law was *ex post facto* as to a crime committed under the former law. *In re Medley, supra.* The same court, however, refused to consider as *ex post facto* a change in the place of execution from the county jail-yard to the penitentiary in another county; and *semble* no law is *ex post facto* which is reasonably calculated to lessen the degree of punishment as applicable to crimes committed before their passage. *Rooney* v. *N. Dakota,* 196 U. S. 319. Whether in any case one mode of inflicting the death penalty can be said as a matter of law to be less severe than another, and to the prisoners advantage, is questionable. There are *dicta* to the effect that such might be held in the case of substitution of electrocution in place of death by hanging. *In re Storti,* 178 Mass. 549, 52 L. R. A. 520; *State* v. *Tomasi* (N. J.), 69 Atl. 214. The present case seems to express at least the tendency of modern authorities.

FEDERAL EMPLOYERS' LIABILITY ACT—EMPLOYEES WITHIN THE MEANING OF THE ACT.—An employee of an interstate railroad, while carrying a bag of bolts for the repair of a bridge used by the company in both intrastate and interstate traffic, was negligently run down and injured by an intrastate passenger train of the company. *Held,* the plaintiff was employed in interstate commerce within the meaning of the Federal Employers' Liability Act of April 22, 1908 (35 Stat. at L. 65, chap. 149, U. S. Comp. Stat. Supp. 1911, p. 1322). *Pederson* v. *Delaware Lackawanna & Western Ry. Co.,* 33 Sup. Ct. 648. See NOTES, p. 73.

HOMICIDE—SELF-DEFENSE—RELATIONSHIP.—Defendant's brother provoked a fight with another; the latter, while in the act of stabbing defendant's brother, was killed by defendant. *Held,* the law regards the act of the assistant as if committed by the assisted party, and therefore the defendant is guilty of manslaughter. *State* v. *Greer* (N. C.), 78 S. E. 310.

It is the duty of every man to prevent the commission of a felony even to the taking of life, if such seems to be reasonably necessary. *State* v. *Hennessy,* 29 Nev. 320, 90 Pac. 221. Legal responsibility of one interfering to prevent the commission of a felony depends on his own intent, not on the intent of the defended, the former having no knowledge of the latter's intent. *Guffee* v. *State,* 8 Tex. App. 187; *Snell* v. *State,* 29 Tex. App. 236, 15 S. W. 722; *Monson* v. *State* (Tex.), 63 S. W. 647; 67 L. R. A. 547 (note). If, however, one acting through personal motives espouses the cause of another, thereby adopting the latter's intent as his own, he can defend only to such an extent as could the original party to the encounter. *Snurr* v. *State,* 19 Ohio 379.

Failure to draw a distinction between cases where the act was inspired by close relationship, and those cases involving the broader principle of justification founded upon the duty to the state to prevent the commission of a felony, has led to a line of decisions holding that an intermeddler acts at his peril, if the person slain were not at fault. *Wheat* v. *Com.* (Ky.), 118 S. W. 264; *State* v. *Cook,* 78 S. C. 253, 59 S. E. 862; 21 CYC. 826-8.

In defense of a close relative, one may do whatever the latter might,